

REMARKS

By this amendment, claims 23, 33, 37, 39, 41, and 44 have been amended, and claim 43 has been cancelled without prejudice. The amendments are made to even more clearly recite the claimed invention, do not add new matter and are fully supported by the original specification. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

Claim Rejections under 35 U.S.C. § 112, first paragraph

The Office Action rejects claims 23, 25-34, and 36-44 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description and enablement requirements. Specifically, the Examiner asserts that the claim term “foothold movement” is not supported by the present specification. Without agreeing with or acquiescing to the rejection, Applicants note that the claims have been amended to remove all instances of the term “foothold.” The claims now recite “predetermined locations on a world map to which the player character may be moved” or “predetermined locations.” Accordingly, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 112, first paragraph.

The Examiner also argues that claims 43 and 44 are not supported by the specification. Without agreeing with or acquiescing to the rejection, Applicants note that claim 43 has been cancelled. However, the elements of claim 43 have been substantially incorporated into claim 44. Applicants submit that there are several exemplary illustrations, which support the features of claim 44 (*see, e.g.*, paragraphs [0070] and [0077] and Figures 6A and 6B in the present specification). For example, paragraph [0077] of the present specification indicates that

When the input instruction is the movement instruction, the CPU 11 moves the player character on the map (world map 100 or a local map) (step S105). The CPU 11 determines whether the player character has moved on the world map 100 (step S106). When the player character has moved on the world map 100, the CPU 11 **updates a date in the game, and makes the setting of the law set in the staged law table of FIG. 6B to be associated with the updated date in the current stage** (step S107). After that, and also when not on the world map, the processing flow proceeds to step S108. (emphasis added)

Furthermore, paragraph [0070] of the present specification indicates that:

In the staged law table in FIG. 6B, a staged law ID and a law unique ID for each stage are stored in association with each other. **The staged law ID corresponds to the date of each stage. In the case of the first day of first stage 1, a law, which includes a staged law ID of "001" and a law unique ID of "009" (namely, damage of 20 or more), is applied as a rule.** (emphasis added)

As described above (and shown in Figure 6B), the date or time unit is updated in a non-circular manner (*i.e.*, the date or time unit is not repeating or circular). As the time unit is updated, the rules are updated based on the unique updated time unit. Because the updated time unit is always unique and does not repeat, the updated rules are also unique (*i.e.*, the updated rules are not redundant or do not repeat). Accordingly, Applicants submit that claim 44 is supported by the specification, and respectfully withdrawal of the rejections under 35 U.S.C. § 112, first paragraph.

Claim Rejections under 35 U.S.C. § 103(a)

The Office Action maintains the previous rejection of claims 23, 25-32, 34, and 36-44 under 35 U.S.C. § 103(a) as being unpatentable over NBA Live 96 Game Manual for the Sega Genesis System (hereinafter "NBA LIVE"). Specifically, the outstanding Office Action maintains that the claimed "rule storage" should be interpreted "as the storage of the rules in

which are to set [sic] as the time is updated” (*see* page 11 of the outstanding Office Action).

Applicants respectfully traverse the grounds for this rejection.

Initially, Applicants note that the claims recite (using claim 23 as a non-limiting example):

A video game apparatus, comprising:
a movement instruction input section that inputs an instruction to move a player character between predetermined locations to which the player character can move on a map;
a movement section that moves the player character between the predetermined locations in accordance with the instruction to move the player character between the predetermined locations;
a time lapse section that updates a time unit of a virtual concept in the video game when the player character is moved between the predetermined locations;
a rule storage that stores a rule to be set in accordance with the updated time unit, the rules being independent of the predetermined locations to which the player character is moved;
a rule judge that determines, with reference to the stored rule, a rule applicable when the video game advances, and that updates the rule based on the updated time unit;
an instruction input device that inputs an instruction to advance the video game;
a rule violation determiner that determines whether the determined rule is violated based on the instruction to advance the video game; and
a penalty processor that imposes a predetermined penalty when the determined rule is violated.

Thus, in the claimed invention, the rules are “independent of the predetermined locations to which the player character is moved,” as recited in the claims. Furthermore, the rule judge “updates the rule based on the updated time unit.”

In contrast, in NBA LIVE, the rules are updated based upon the location of the character on the basketball court (or when a team gains control of the ball in the case of the “shot clock” rule), rather than being “independent of the predetermined locations to which the player character is moved” or “based upon the updated time unit” (as required by the claimed rule

storage and rule judge, respectively). Furthermore, in NBA LIVE, time progresses independently of whether the player character moves on the basketball court (*i.e.*, time will progress whether the character moves or not), whereas the claimed “time lapse section” updates the time when the player moves between predetermined locations to which the player character can move on a map.

Therefore, Applicants submit that NBA LIVE does not disclose or suggest the “rule judge,” “rule storage,” and the “time lapse section unit,” as recited in the claims. Furthermore, due to the aforementioned distinctions between teachings of NBA LIVE and the features of the claimed invention, Applicants submit that even if one attempted to modify the teachings of NBA LIVE in the manner discussed by the Examiner in the Office Action, one would fail to arrive at the claimed invention, as such modifications would deviate from the conventional rules and/or goals of a basketball game. Thus, Applicants submit that NBA LIVE fails to render obvious all of the elements of the claimed invention (as required under 35 U.S.C. § 103(a)), and respectfully request withdrawal of the rejection of independent claims. Furthermore, Applicants submit that the dependent claims are allowable for at least the same reasons applicable to independent claims 23, 33, 37, 39, and 41, and additionally, for the specific features recited in each dependent claim.

Applicants also note that page 4, line 1, and page 10, paragraph 2, of the outstanding Office Action indicates that claims 24 and 35 has been rejected. However, both claims 24 and 35 were cancelled without prejudice in the Amendment filed December 28, 2007. Applicants also note that claims 33 and 44 were not rejected over the cited art. Therefore, in view of the amendments made to overcome the rejection of claims 33 and 44 under 35 U.S.C. § 112, Applicants presume that claims 33 and 44 are allowable over the cited art. If the Examiner

wishes to reject claims 33 and 44, Applicants respectfully request that the Examiner withdraw the finality of this Office Action and issue a new Office Action.

Lastly, although the claims have been slightly amended to emphasize the aforementioned features, Applicants note that these claim elements were previously recited in the claims. The claims previously recited “a rule storage that stores a rule to be set *in accordance with the updated time unit*,” and “a rule judge that determines, with reference to the stored rule and *in accordance with the updated time unit* a rule applicable when the video game advances” (emphasis added). Therefore, although it is within the discretion of the Examiner to enter amendments after a Final Office Action, Applicants respectfully request that the Examiner enter and consider these amendments, as these amendments do not change the scope of the claimed invention and do not warrant further searching. Rather, these amendments are intended to merely clarify previous claim recitations.

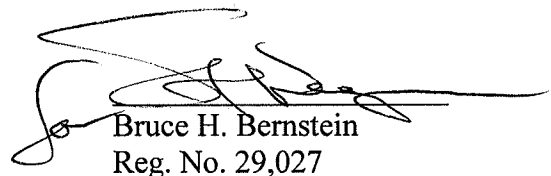
CONCLUSION

In view of the foregoing, it is submitted that the Examiner's rejections should be withdrawn. Entry and consideration of the present amendment, reconsideration of the outstanding Office Action, and allowance of the present application and all of the claims therein are respectfully requested are now believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejections is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

If the Examiner has any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Yasumi MATSUNO et al.



Bruce H. Bernstein
Reg. No. 29,027

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

Steven Wegman
Reg. No. 31,438